

HOUSE BILL 980

E2, E5

3lr2037

By: **Delegates Young, Addison, Amprey, Attar, Boafu, Bridges, Conaway, Davis, Embry, J. Long, Mireku–North, Stewart, Toles, Vogel, Wilkins, and Williams**
Introduced and read first time: February 10, 2023
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Probation, Parole, and Pretrial Release Violations**
3 **– Cannabis Use**

4 FOR the purpose of prohibiting a court from revoking a defendant’s pretrial release or
5 finding that a defendant has violated probation, and the Maryland Parole
6 Commission from finding that a parolee has violated parole, based solely on the use
7 of cannabis or a positive test for cannabis unless the court or Commission makes a
8 finding that the use of cannabis could create a certain danger; and generally relating
9 to probation, parole, and pretrial release violations.

10 BY repealing and reenacting, with amendments,
11 Article – Criminal Procedure
12 Section 5–213 and 6–231
13 Annotated Code of Maryland
14 (2018 Replacement Volume and 2022 Supplement)

15 BY adding to
16 Article – Correctional Services
17 Section 7–401.1
18 Annotated Code of Maryland
19 (2017 Replacement Volume and 2022 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
21 That the Laws of Maryland read as follows:

22 **Article – Criminal Procedure**

23 5–213.

24 (a) A court may issue a bench warrant for the arrest of a defendant who violates

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 a condition of pretrial release.

2 (b) After a defendant is presented before a court, the court may:

3 (1) revoke the defendant's pretrial release; or

4 (2) continue the defendant's pretrial release with or without conditions.

5 (c) (1) **IN THIS SUBSECTION, "CANNABIS" HAS THE MEANING STATED IN**
6 **§ 5-101 OF THE CRIMINAL LAW ARTICLE.**

7 (2) **NOTWITHSTANDING ANY OTHER LAW, A COURT MAY NOT REVOKE**
8 **A DEFENDANT'S PRETRIAL RELEASE BASED SOLELY ON THE USE OF CANNABIS OR A**
9 **POSITIVE TEST FOR CANNABIS UNLESS THE COURT MAKES A SPECIFIC FINDING**
10 **THAT THE DEFENDANT'S USE OF CANNABIS COULD CREATE A DANGER TO THE**
11 **DEFENDANT OR OTHERS.**

12 6-231.

13 (A) Before the revocation of any probation ordered under this title, and in addition
14 to any other factors the court considers in connection with the determination of an
15 appropriate sentence, the court shall:

16 (1) consider any evaluation or recommendation of any health professional
17 licensed under the Health Occupations Article;

18 (2) consider relevant information about the defendant's drug or alcohol
19 abuse; and

20 (3) make a finding on the record as to the defendant's amenability to
21 treatment and the interest of justice.

22 (B) (1) **IN THIS SUBSECTION, "CANNABIS" HAS THE MEANING STATED IN**
23 **§ 5-101 OF THE CRIMINAL LAW ARTICLE.**

24 (2) **NOTWITHSTANDING ANY OTHER LAW, A COURT MAY NOT FIND**
25 **THAT A DEFENDANT HAS VIOLATED PROBATION BASED SOLELY ON THE USE OF**
26 **CANNABIS OR A POSITIVE TEST FOR CANNABIS UNLESS THE COURT MAKES A**
27 **SPECIFIC FINDING THAT THE DEFENDANT'S USE OF CANNABIS COULD CREATE A**
28 **DANGER TO THE DEFENDANT OR OTHERS.**

29 **Article – Correctional Services**

30 **7-401.1.**

1 **(A) IN THIS SECTION, “CANNABIS” HAS THE MEANING STATED IN § 5–101 OF**
2 **THE CRIMINAL LAW ARTICLE.**

3 **(B) NOTWITHSTANDING ANY OTHER LAW, THE COMMISSION MAY NOT FIND**
4 **THAT A PAROLEE HAS VIOLATED PAROLE BASED SOLELY ON THE USE OF CANNABIS**
5 **OR A POSITIVE TEST FOR CANNABIS UNLESS THE COMMISSION MAKES A SPECIFIC**
6 **FINDING THAT THE PAROLEE’S USE OF CANNABIS COULD CREATE A DANGER TO THE**
7 **PAROLEE OR OTHERS.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2023.